THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15914 of 2007

Dated: 30-07-2007

Between:

Devender Prakash Loya.

..... PETITIONER

AND

The Gram Panchayat, Mahabubabad, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15914 of 2007

ORDER:

The petitioner is resident of Mahabubabad Village and Mandal, Warangal District. He purchased land to an extent of 189.15 sq. yards in survey No.307/2 situated at said Village under a registered sale deed dated 19.10.2006. He allegedly submitted an application on 15.03.2007 to the Gram Panchayat, Mahabubabad, first respondent herein, requesting building permission for construction of house on the land he purchased. First respondent Gram Panchayat, though allegedly received the application, did not pass any orders. Taking advantage of section 127(3) of the Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity), the petitioner collected the construction material and stored the same at his land. The staff of first respondent Gram Panchayat did not allow the petitioner to proceed with the construction. On the basis of "deemed permission" under Section 127(3) of the Act, he filed instant writ petition.

After taking this Court through the application dated 15.03.2007 allegedly submitted by the petitioner to first respondent Gram Panchayat, the learned counsel for the petitioner submits that under Section 127(3) of the Act and Rule 26 of the Andhra Pradesh Gram Panchayat Land Development (layout and building) Rules, 2002 (the Rules, for brevity), when once the building permission is not granted by the executive authority of the Gram Panchayat within fifteen days from the date of receipt of the application for permission, it shall be deemed to have been granted. The learned counsel, therefore, would allege that the petitioner, in law, is entitled to proceed with the construction and the staff of first respondent Gram Panchayat cannot interfere with the construction, especially when the petitioner has collected the construction material. **Opposing** the writ petition, the learned standing counsel for first respondent Gram Panchayat submits that the petitioner has not paid the requisite fee/charges along with the application for grant of permission. Secondly, he submits that the application for building permission is required to be made in accordance with Rule 14 of the Rules and therefore, the petitioner is not entitled to the alleged deemed permission.

Section 127(3) of the Act contains general provisions regarding licences and permissions. When an application is made seeking permission, the executive authority of the Gram Panchayat has to pass an order either refusing or granting permission in accordance with the rules and byelaws made for the purpose. Proviso to Section 127(3) of the Act is to the effect that every application for permission shall be

disposed of within fifteen days from the date of receipt thereof, failing which it shall be deemed that permission is granted. The procedure for obtaining sanction/approval for layout or for construction of building is contained in the Rules. Rule 14 of the Rules lays down that the application for permission to construct building shall be accompanied by a site plan drawn to scale of not less than 1:500 in a prescribed application appended to Annexure-G. The term "Prescribed" as defined in Section 2(30) of the Act means prescribed by the Government by rules made under the Act. As per the Rules, an application has to be necessarily and compulsorily submitted under Annexure-G. When such an application is made, it is quite possible for one to argue that there is a deemed permission under Section 127(3) of the Act for want of order of refusal or grant by the Gram Panchayat. In this case, admittedly the petitioner did not submit any application in Annexure-G. The learned counsel, however, submits that though the application submitted by the petitioner is not in

Annexure-G, in substance the same is in tune with Annexure-G. After perusing Rule 14 of the Rules and Annexure-G, this Court is not able to countenance the submission of the learned counsel for the petitioner. Therefore, there is every justification on the part of first respondent Gram Panchayat in not taking action on the application of the petitioner dated 15.03.2007. The petitioner may make application now in Annexure-G. It shall be open to first respondent Gram Panchayat to pass appropriate orders immediately after receiving such application.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

30th July, 2007
ghn